



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Manfred BROCKHAUS et al.

Examiner: R. Schwadron, Ph.D.

Serial No.: 08/444,791

Art Unit: 1644

Filed: May 19, 1995

For: **HUMAN TNF RECEPTOR**

Nutley, New Jersey
March 22, 2004

COMMUNICATION IN RESPONSE TO OFFICE ACTION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Communication is in response to the September 23, 2003 Office Action issued in connection with the above-identified patent application, which set a one-month shortened statutory period for response. A response to the Office Action was originally due October 23, 2003.¹ A five-month extension of time to respond to the Office Action is being requested concurrently. Accordingly, a response to this Office Action is now due March 23, 2004. 37 CFR §§ 1.8 and 1.136.

REMARKS

On page 2 of the Office Action, the Examiner issued a four-way restriction requirement as to the claims presented in the Response filed June 17, 2003 (claims 100-124). The restriction divided the claims into the following allegedly distinct inventions: Invention I (claims 105-109²) drawn to "a DNA molecule and vector

¹ The five-month extension of time includes the one-month extension of time previously granted.

² Invention I is characterized by the Examiner as the "originally claimed invention" and therefore as "constructively elected." (Paper No. 31 at 2-3.) Claims 105-109 are not specifically recited, and are not "withdrawn from consideration as being directed to a non-elected inventions." (*Id.* at 3.) Accordingly, it is assumed that the Examiner considered claims 105-109 as part of Invention I. If this assumption is